

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YU HING SU, JIAN OU, and JIAN BIN LIN,
on behalf of themselves and all others
similarly situated,

Plaintiffs,
-against-
HAILU ASIAN BISTRO INC., et al.,
Defendants.

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1:17-cv-10243-MKV

ORDER ADOPTING
REPORT AND RECOMMENDATION

MARY KAY VYSKOCIL, United States District Judge:

Plaintiffs Jian Ou and Jian Bin Lin brought this action on behalf of themselves and others similarly situated against Defendant Hailu Asian Bistro Inc., to recover unpaid wages, overtime wages, and other damages arising from Defendant's alleged violations of the Fair Labor Standards Act ("FLSA") and the New York Labor Law ("NYLL").¹ [ECF No. 1] ("Compl."). After Defendant failed to answer, appear, or otherwise move with respect to the Complaint, the Court granted a default judgment against Defendant with respect to liability only. [ECF No. 52]. The Court then referred this matter to Magistrate Judge Valerie Figueredo for an inquest on damages. [ECF No. 55].

Judge Figueredo conducted a thorough and careful inquest and issued a Report and Recommendation (the "Report") that this Court award damages as specified in the Report. Despite notification of the right to object to the Report, no party filed a timely (or untimely) objection to the Report. Where no timely objections are made, the Court reviews the Report for

¹ The complaint initially named five additional defendants, but the claims against those defendants were voluntarily dismissed without prejudice by the plaintiffs. [ECF No. 51]. The complaint also included an additional named plaintiff, Yu Hing Su, but the claims asserted by that plaintiff were dismissed without prejudice for failure to prosecute. [ECF No. 54]

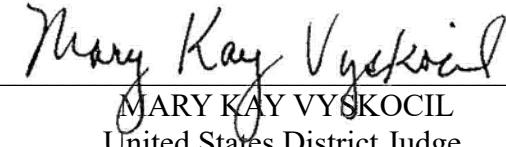
clear error. *See Braunstein v. Barber*, No. 06-cv-5978, 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009). Magistrate Judge Figueredo's well-reasoned Report presents no such errors and is therefore fully adopted by this Court.

For the reasons stated in the Report, Plaintiff Jia Bin Lin is hereby awarded \$14,473.00 and Plaintiff Jian Ou is awarded \$13,864.00. These awards are comprised of unpaid spread-of-hours wages, liquidated damages, and statutory damages. In addition, Plaintiffs are awarded pre-judgment interest at the statutory rate of 9% a year, which the Clerk of Court is directed to calculate as follows: for Plaintiff Lin, on the amount of \$2,236.50, from June 19, 2017, to the date judgment is entered; and for Plaintiff Ou, on the amount of \$1,932.00, from July 5, 2017, to the date judgment is entered. Finally, Post-judgment interest shall be calculated from the day the Clerk of Court enters judgment until the date of payment by Defendant, using the federal interest rate set forth in 28 U.S.C. § 1961.

The Clerk of Court respectfully is requested to enter judgment in accordance with this order and to close the case.

SO ORDERED

Dated: March 31, 2023
New York, New York



MARY KAY VYSKOCIL
United States District Judge